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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 1761

In re

Patent Application of

Robert A. Baydo et al.

Application No. 10/601,064

Confirmation No. 5519

Filed: June 20, 2003

Examiner: Adepeju Pearse

“FOOD GRADE COLORED FLUIDS FOR
PRINTING ON EDIBLE SUBSTRATES”

I, Mary A. Koceja, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.

Mary A. Koceja
Signature
1/24/06
Date of Signature

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication responds to the Office action mailed January 3, 2006 and is being filed before the due date of February 3, 2006.

The Examiner restricted the claims into two groups: Group I (claims 1-41 and 52-84) drawn to colored fluid compositions, classified in class 426, subclass 540; and Group II (claims 42-51) drawn to methods of applying an edible colorant by ink jet printing, classified in class 426, subclass 383.

There are two criteria for a proper requirement for restriction: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required (MPEP §803). Applicants respectfully traverse the restriction requirement because there is no serious burden on the Examiner if restriction is not required.

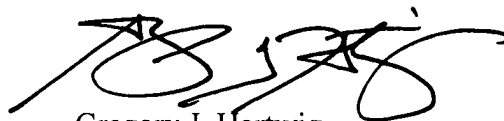
The Manual of Patent Examining Procedure ("MPEP") states that:

"If the search and the examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803

Applicants respectfully submit that all the claims of Groups I and II could be searched and examined together without placing any serious burden on the United States Patent and Trademark Office. The claims of Groups I and II are directed to food grade colored fluids and methods of applying the food grade colored fluids. Each of the claims of Group II directly depend from, and therefore include, each of the elements of one or more of the claims in Group I. Therefore, if the claims of Group I satisfy the requirements for patentability, the claims in Group II would also be patentable, without further searching being required by the Examiner. Moreover, the claims of Groups I and II are both classified in class 426. Given the close relationship between the claims of Groups I-II, and that the claims in each group all fall under the same class, prosecution of the claims in the same application would be administratively efficient by the Patent Office. Specifically prosecuting the applications together, one Examiner could readily examine the subject matter of the claims of the application at once.

Applicants therefore traverse the restriction requirement for the reasons set forth above, and request reconsideration and withdrawal of the requirement. Nevertheless, if Applicants' arguments are found unpersuasive, Applicants provisionally elect the claims of Group I (claims 1-41 and 52-84) with traverse. No fees are believed owing with this submission. Please charge any required fees or credit any overpayment to Deposit Account No. 13-3080.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gregory J. Hartwig', with a stylized flourish at the end.

Gregory J. Hartwig
Reg. No. 46,761

Docket No. 085516-9010-US00
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